

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

THERON KANE KIRBY,

Plaintiff,

vs.

No. CV 18-00017 KG/GJF

WARDEN BETTY JUDD,  
FNU LNU, and NEW MEXICO  
DEPARTMENT OF CORRECTIONS,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the Prisoner's Civil Rights Complaint ("Complaint") filed by Plaintiff Theron Kane Kirby on January 5, 2018 (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with a Court order and failure to prosecute.

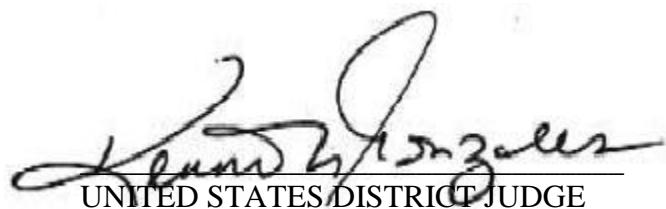
The record reflects that certain mailings to Plaintiff Theron Kane Kirby were returned as undelivered (*see* Doc. 8, 10). It appeared that Plaintiff had been transferred or released from custody without advising the Court of his new address, as required by D.N.M. LR-Civ. 83.6, thus severing contact with the Court.

The Court then issued an Order to Show Cause on January 9, 2018, directing Kirby to notify the Court of a new address, or otherwise show cause why the case should not be dismissed, within 21 days of entry of the Order. (Doc. 9). More than 21 days has elapsed since entry of the Order to Show Cause and Plaintiff Kirby has not provided the Court with a new address, responded to the Court's Order, or otherwise shown cause why the case should not be dismissed.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10<sup>th</sup> Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Plaintiff Kirby has failed to comply with D.N.M. LR-Civ. 83.6 and with the Court's January 9, 2019, Order to Show Cause.

Plaintiff Kirby has failed to comply with the Court's order and failed to prosecute this action by not keeping the Court apprised of his current address. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10<sup>th</sup> Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Order and failure to prosecute this proceeding.

IT IS ORDERED that the Prisoner's Civil Rights Complaint filed by Plaintiff Theron Kane Kirby on January 5, 2018 (Doc. 1) is DISMISSED without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with the Court's Order and failure to prosecute.



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UNITED STATES DISTRICT JUDGE